



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:	)	
	)	
REDACTED	)	ISCR Case No. 20-01676
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Karen Moreno-Sayles, Esq., Department Counsel  
 Nicole A. Smith, Esq., Department Counsel  
 For Applicant: *Pro se*

05/06/2022

**Decision**

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant defaulted on 14 consumer-credit accounts totaling approximately \$28,954. He has made some progress of late toward addressing his past-due debts, which were largely due to his divorce. Yet some concerns about his financial stability persist. Clearance eligibility is denied.

**Statement of the Case**

On August 20, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F, financial considerations. The SOR explained why the DCSA CAF was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DCSA CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for*

*Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position (AG) effective within the DOD on June 8, 2017.*

Applicant answered the SOR allegations on a date not clear in the record. He requested a decision on the written record in lieu of a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On December 14, 2021, the Government submitted a File of Relevant Material (FORM) consisting of a statement of the Government's position and seven documents pre-marked as Item 1 through Item 7. The SOR and Applicant's SOR response were included as Items 1 and 2, respectively. Applicant received the FORM on December 20, 2021. He responded that a security clearance was not needed to fulfill his current job duties. On being informed that his employer was still sponsoring him for security clearance eligibility, on January 4, 2022, Applicant requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA).

On February 23, 2022, Applicant requested an expedited hearing. On February 24, 2022, the case was assigned to me to determine whether it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant. I received the case file and assignment on March 1, 2022. On March 3, 2022, I scheduled a video conference hearing to be held via Microsoft Teams on April 5, 2022.

At the hearing, four Government exhibits (GEs 1-4) and four Applicant exhibits (AE A- D), including Applicant's extensive response to the SOR as AE A, were admitted in evidence. The Government offered as GE 5 a summary of a November 2018 personal subject interview (PSI). Applicant objected to its admission, and it was not accepted into evidence for lack of authentication under E3.1.30 of the Directive. Applicant testified, as reflected in a hearing transcript (Tr.) received by DOHA on April 13, 2022.

I held the record open after the hearing for additional documentation from Applicant. Over the April 7-8, 2022 timeframe, Applicant submitted documentation that was admitted without objections as AE E through AE P.

### **Findings of Fact**

The SOR alleges that, as of August 20, 2021, Applicant owed six charged-off debts totaling \$17,617 (SOR ¶¶ 1.a, 1.e-1.g, and 1.i-1.j), and eight collection debts totaling \$11,337 (SOR ¶¶ 1.b-1.d, 1.h, and 1.k-1.n). When Applicant answered the SOR, he admitted the alleged accounts were delinquent but indicated that the original amount of the debt in SOR ¶ 1.h was \$80 less than the amount alleged. He stated that he had previously made payments on the debts in SOR ¶¶ 1.a and 1.b; was on payment plans for the debts in SOR ¶¶ 1.c-1.d, 1.f, 1.h-1.i, and 1.k-1.l; and had paid off the debts in SOR ¶¶ 1.m and 1.n. He asserted that once the debts in payment plans were resolved, he would resume payments on the debts in SOR ¶¶ 1.a and 1.b, and begin payments on the debts in SOR ¶¶ 1.e, 1.g, and 1.j. I accept and incorporate as factual findings that Applicant incurred the delinquencies in the amounts admitted by him. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 35-year-old designer employed by a defense contractor since May 2005. (GE 1.) He has held a DOD security clearance for over 16 years with no security violations. (Tr. 67.) He took classes at two local community colleges between May 2008 and May 2013, and he earned a certificate. (GE 1.)

Applicant and his ex-wife divorced in August 2017 after four plus years of marriage. His ex-wife has primary residential custody of their two daughters, now age 6 and age 11. (GE 1; AE A.) Applicant has two other daughters, age 2 and age 7 months, with his fiancée. They have had a cohabitant relationship since about October 2019. (Tr. 50, 54.)

In July 2013, Applicant purchased the home that he shared with his now ex-wife. He obtained a first mortgage of \$153,174 and a second mortgage of \$12,345. He made his mortgage payments on the primary loan through May 2017 and on the other loan through June 2017. (GEs 3-4.) In July 2017, he and his ex-wife separated permanently, and he moved in with his mother for about a month before renting an apartment. (GE 1.)

Applicant's ex-wife was given the marital home in the divorce. (GE 1; AE A.) As of August 2017, the monthly payment obligation on the first mortgage was \$1,097. (GE 4.) Applicant was required to pay the expenses of the property, including the mortgages, only through June 30, 2017. Thereafter, his ex-wife was solely obligated to pay the mortgage loans, taxes, insurance, maintenance, and utility expenses for the property. The court gave her five years to refinance the property and obtain a mortgage in her name. Applicant was to be removed from liability for any debt related to the property within five years of their divorce. (AE A.) She made no payments on the mortgages. (GEs 3-4.) The house "went under," and Applicant asserts he could do nothing about the situation, as he had been required in the divorce to deed the property to his ex-wife, who abandoned the property. (Tr. 26.) As of August 2017, the primary mortgage was listed as having a zero balance on Applicant's credit report after transfer. However, the second mortgage was still affecting his credit. As of November 2017, that mortgage loan was \$323 past due on a balance of \$11,378. (GE 4.)

At the time of their divorce, Applicant and his ex-wife agreed that he would pay \$291 per week in child support starting July 7, 2017, and that they each would pay half of the cost of work-related or camp daycare and medical expenses for their children. Regarding financial liabilities, Applicant and his ex-wife assumed responsibility for the debts incurred separately or in their respective names. They agreed to indemnify and hold harmless the other from any liability arising for the failure to pay a debt, and to terminate any joint accounts. (AE A.)

Applicant had been current on his financial obligations before his divorce, (Tr. 39, 41.) He stopped paying on several of his consumer credit obligations in the summer of 2017 because he could not afford to pay them as he had his divorce attorney's fees totaling some \$10,000; his child support payment; and his living expenses, which included rent. (Tr. 36, 43.) His annual income in 2017 was less than \$60,000. (Tr. 48.)

On November 30, 2017, Applicant completed a Questionnaire for National Security Positions (SF 86) to renew his security clearance eligibility. He indicated on his SF 86 that a credit management company was assisting him in eliminating all but one of his credit-card debts (including the debts in SOR ¶¶ 1.c, 1.f-1.i, and 1.l). Under a section for additional comments, Applicant stated that his ex-wife was supposed to pay the mortgage on the marital residence, but that it was continuing to adversely affect his credit and his credit score. (GE 1.) Applicant now discrepantly recalls that he contacted the credit management company in late 2017 and that the company was handling only two or three of his credit-card delinquencies, including the account in SOR ¶ 1.j. (Tr. 45.)

Applicant paid the credit management company \$267 per month for several months but less than one year before he terminated its service in October 2018 because he saw no progress in the reduction of his debts. He believes the company was holding onto his money until debts dropped from his credit report. (Tr. 44-47.) He began contacting his creditors on his own to arrange for repayment. (Tr. 46.)

Several of Applicant's accounts were delinquent by December 2017, including a couple of debts not alleged in the SOR. (GE 4.) The history of his delinquency and repayment efforts for the SOR debts follows.

#### SOR ¶ 1.a — \$9,990 charged-off account

An unsecured loan with a credit union, with a high credit of \$11,785, was \$298 past due with a \$9,882 balance as of November 2017. The loan was scheduled to be repaid at \$300 per month. (GE 4.) Applicant had taken out the loan to replace a couple of his now ex-wife's engines. He asserts that she was supposed to pay him half of the loan and never did. (Tr. 42.) The account was charged off for \$9,990 in July 2018 because of no payments after March 2018. (GE 3.)

Applicant made four \$60 payments toward the debt in June 2021 to bring the balance of the debt to \$9,735. (GE 2; AE A.) Applicant asserted in August 2021 that he would resume repayment when the debts in SOR ¶¶ 1.c, 1.d, 1.f, 1.h, 1.k, and 1.l were paid off. (AE A.) On January 4, 2022, Applicant arranged to pay \$10 a week toward the debt through automatic deductions from his checking account. (AE B.) He made 11 payments of \$10 each between January 21, 2022, and April 1, 2022. (AE G.)

#### SOR ¶ 1.b — \$3,184 collection account

Applicant became delinquent on his rent payment starting in June 2019. In October 2019, the creditor placed a past-due balance of \$3,184 in collection. (GEs 2-3.) Applicant made \$67 weekly payments in June 2021 to reduce the balance of the debt to \$3,117. (GE 2; AE A.) He asserted in August 2021 that he would resume payments when the debts in SOR ¶¶ 1.c, 1.d, 1.f, 1.h, 1.k, and 1.l were paid off. (AE A.) He made no further payments on the collection account by December 2021. (GE 2.) On January 4, 2022, Applicant arranged to pay \$10 a week toward the debt through automatic deductions from his checking account. Payment records reflect he made \$10 weekly payments from January

21, 2022, through April 1, 2022. (AE H.) As of April 8, 2022, the debt balance was \$3,007.81. (AE P.)

SOR ¶ 1.c — \$2,902 collection account

Applicant's credit-card account (#6032), opened in October 2009, became delinquent in September 2017 for nonpayment after July 2017. As of December 2017, his account was \$561 past due on a balance of \$2,891. (GE 4.) In February 2019, his account was placed for collection in the amount of \$2,902. (GE 3.) According to Applicant, the creditor agreed to accept \$2,000 in settlement payable at \$41.50 per week. (AE A.) As of November 2021, Equifax was reporting a debt balance of \$2,034. (GE 2.) Payment records show that he made \$41.50 weekly payments to a collection entity from June 24, 2021, through April 1, 2022. (AEs A, B, I.) The debt balance was \$132.50 as of April 8, 2022. (AE P.) After the debt is paid off in late April 2022, Applicant plans to put the money he was paying to this creditor toward other debts. (Tr. 42.)

SOR ¶ 1.d — \$2,305 collection account

Applicant stopped paying on a revolving charge account (#6879) opened in June 2010. As of December 2017, his account was \$274 past due on a balance of \$2,419. (GE 4.) In May 2019, his account was placed for collection with an outstanding balance of \$2,305. (GE 3.) On June 18, 2021, he began making \$23.11 monthly payments toward the debt. (AE A.) As of November 2021, he owed \$2,103 on the debt. (GE 2.) A payment record reflects that he continued to make his monthly payments through March 21, 2022. (AE J.)

SOR ¶ 1.e — \$2,225 charged-off account

Applicant and a joint owner opened the credit-card account in September 2005. The creditor charged off a \$2,225 balance in July 2019 after two years of no payments. (GE 2.) Applicant asserted in August 2021 that he would resume payments when the debts in SOR ¶¶ 1.c, 1.d, 1.f, 1.h, 1.k, and 1.l were paid off. (AE A.) He has made no payments toward the debt. (GE 2; AE P.)

SOR ¶ 1.f — \$1,965 charged-off account

Applicant opened the credit-card account (#5178) in September 2015. His account had a credit limit of \$1,700. He made no payments on the account after July 2017, and the creditor charged off his account for \$2,083. (GEs 2-4.) After a June 2021 payment, Applicant reportedly owed a balance of \$1,880. (GE 2.) He asserted in August 2021 that he was current on a payment plan under which he was making payments of between \$30 and \$100 a month toward an outstanding balance of \$1,775. (AE A.) He did not make any payments after June 2021 until November 26, 2021, when he began making \$15 weekly payments to a collection entity. As of April 1, 2022, he had made 19 payments of \$15 each. (AE K.)

#### SOR ¶ 1.g — \$1,245 charged-off account

Applicant's gasoline credit-card account (#2116), opened in August 2014, was reportedly past due for \$311 on a balance of \$1,122 in December 2017. (GE 4.) The account was closed in November 2017 and charged off for \$1,245 around February 2018 because of nonpayment after June 2017. (GEs 2-3.) Applicant asserted in August 2021 that he would make payments when the debts in SOR ¶¶ 1.c, 1.d, 1.f, 1.h, 1.k, and 1.l were paid off. (AE A.)

Applicant provided evidence of \$10 weekly payments starting January 24, 2022, to a collection entity (AEs B, L), which he indicates were made on the debt in SOR ¶ 1.g. However, the evidence shows that the payments were made on a credit-card debt placed with the collection entity by a home improvement retailer (debt not alleged in the SOR). Available credit reports show that Applicant's credit card (ending in #4281) with the home improvement retailer, opened in December 2010, was \$255 past due on a balance of \$896 as of November 2017. (GE 4.) As of April 6, 2022, the collection entity was reporting a debt balance of \$898 on the debt placed by the home improvement retailer. (AE L.) It was not clearly established that Applicant has made any payments on the gasoline credit-card account in SOR ¶ 1.g. As of December 2021, the debt was on his credit record as \$1,245 past due. (GE 2.)

#### SOR ¶ 1.h — \$1,187 collection account

Applicant's gasoline credit-card account (#7302), opened in August 2014, was 120 days or more past due in the amount of \$294 on a \$1,065 balance as of December 2017. (GE 4.) In October 2018, the creditor placed a \$1,187 balance for collection. (GE 3.) As of December 2021, Equifax was reporting a debt balance of only \$71 on the debt. (GE 2.) Applicant provided records showing that a judgment obtained by the collection entity was satisfied as of December 20, 2021. (AE D.)

Applicant submitted in evidence checks showing \$10 weekly payments from October 1, 2021, through April 1, 2022, to a collection entity to resolve an account. He asserts that the payments are for the debt in SOR ¶ 1.h (AEs E, F) to reduce the balance to \$739.36 as of April 8, 2022. (AE P.) It is unclear what debt is currently being addressed through those payments. It may be a credit-card debt owed to a tire retailer, as Applicant asserted that he is repaying that debt at \$10 a month. (AE L.) His December 2017 credit report lists a credit-card account with a tire retailer opened in March 2014 that was \$401 past due on a balance of \$1,268 as of December 2017. (GE 4.)

#### SOR ¶ 1.i — \$1,140 charged-off account

Applicant's credit-card account with the creditor (#5178), opened in February 2016, was past due \$242 on a balance of \$1,334 as of December 2017. (GE 4.) The account was charged off for \$1,140. (GEs 3-4.) After an initial payment of \$1 on July 9, 2021, Applicant made \$30 payments approximately every two weeks starting on July 23, 2021. As of August 2021, he claimed a debt balance of \$955. (AE A.) The debt was not on his credit

report as of December 2021. (GE 2.) As of April 5, 2022, the debt balance was \$593.14. (AE N.)

SOR ¶ 1.j — \$1,052 charged-off account

Applicant's retail charge account, opened with the creditor in December 2013, was past due for \$207 on a balance of \$882 as of December 2017. (GE 4.) His account was charged off for \$1,052. (GEs 2-3.) He asserted in August 2021 that he would make payments when the debts in SOR ¶¶ 1.c, 1.d, 1.f, 1.h, 1.k, and 1.l were paid off. (AE A.) As of December 2021, he had made no payments on the debt. (GE 2.) On January 4, 2022, he arranged to make \$10 weekly payments starting in January 2022. He provided payment records showing 11 payments of \$10 each between January 21, 2022, through April 1, 2022. (AE M.) As of April 8, 2022, the debt balance was \$942.38. (AE P.)

SOR ¶ 1.k — \$776 collection account

Applicant's account with an Internet and cable services provider first became delinquent in July 2017. It was placed for collection in December 2019 for \$776. (GE 2.) He arranged to make \$50 monthly payments. (AE A.) As of November 2021, the balance of the debt was \$726. (GE 2; AE A.) He made a payment on February 26, 2022 (Tr. 47), which fully resolved the debt. (AE C.)

SOR ¶ 1.l — \$492 collection account

Applicant made no payments after July 2017 on a Visa credit-card account (#4447) opened by him in January 2016. As of December 2017, the account was \$160 past due on a balance of \$773. (GE 4.) The account was charged off and sold or transferred in March 2018. As of March 2020, Applicant owed a balance of \$492. (GE 3.) He began repaying the debt at \$35 per week on June 18, 2021. As of August 13, 2021, he had made eight payments of \$35 each. (AE A.) He paid off the debt on December 20, 2021. (AE P.)

SOR ¶ 1.m — \$392 collection account

As of March 2020, Applicant owed a collection balance of \$392 to the same creditor identified in SOR ¶ 1.k. (GE 3.) The credit entry on his credit report does not reflect an account number for the debt. Applicant paid off the debt on June 18, 2021. (AE A; Tr. 28.) The debt was not on his December 2021 credit report. (GE 2.)

SOR ¶ 1.n — \$99 collection account

Applicant's account with a telecommunications company was in collection for \$99 as of March 2020. (GEs 2-3.) The debt was fully resolved with a final payment of \$49 on June 18, 2021. (GE 2; AEs A, P; Tr. 28.)

Applicant's annual income at work increased by \$5,000 to \$6,000 in 2018 and 2019. (Tr. 49.) Despite the extra income, Applicant fell behind about \$6,000 in his child support,

which he attributes to unexpected medical co-payment expenses. (Tr. 31.) In March 2019, he was ordered to pay \$457 per week (\$291 for child support, \$50 toward the arrearage, and \$116 for daycare) to his ex-wife. The payment was to be made by wage execution, which he asserts was voluntary. Any payment five days late or more would result in a \$50 weekly sanction fee. (AE A; Tr. 31-33, 38.) As of early February 2022, Applicant's child support arrearage was \$1,826. On his petition, his child support was modified to \$391 per week (\$291 in child support, \$50 in childcare expenses, and \$50 toward the arrearage). (AE O.) The modification of Applicant's child support obligation in February 2022 freed up \$66 per week to put towards his delinquent debts. (Tr. 30.) Applicant expects the child-support arrearage to be paid off in August 2022. At that point, his child support obligation will decrease by \$50 to \$341 per week, and he will have additional funds to pay down his debts. (Tr. 31.)

Applicant had insufficient income withheld from his pay for tax years 2017 through 2020 to cover his federal income tax obligations. He could not pay the taxes owed when they were due because of his child support obligation. (Tr. 58-59.) He has paid approximately \$70,000 total in child support and daycare costs for his two older daughters since 2017. (Tr.44.) In the spring of 2021, he began making \$25 monthly payments to the IRS under an installment agreement to repay his delinquent federal income taxes for tax years 2017 through 2020. The agreement was modified in March 2022 to increase his monthly payment to \$50. Some \$1,100 of his \$2,000 federal income tax refund for 2021 was put towards his federal income tax delinquency, which reduced his income tax delinquency for tax years 2017 through 2020 to approximately \$20,000. (Tr. 59-62.)

Applicant's December 2021 credit report reflects that Applicant and a joint owner obtained an unsecured loan of \$5,733 in January 2021. They were making monthly payments of \$132 on time. Additionally, Applicant opened new credit-card accounts with \$300 credit limits in August 2020, September 2020, February 2021, and August 2021. As of November 2021, the accounts were current with respective balances of \$358, \$342, \$268, and \$279. An automobile loan, obtained by Applicant in May 2019 for \$11,266, was past due for \$900 on a balance of \$11,456 as of October 2021. He was not asked about the reasons for his late payments or about a credit-card delinquency that he paid after his account was charged off for \$616. (GE 2.)

Applicant currently earns about \$83,000 annually in his defense-contractor job. (Tr. 49.) He is repaying a \$10,000 loan from his retirement account at work. He borrowed the funds in 2016 to renovate the basement in his marital residence. The payment of \$51.92 a week comes directly out of his pay. (Tr. 57.)

Applicant, his fiancée, and their two young daughters live with his fiancée's parents. His fiancée works as a dental assistant. (Tr. 64.) Applicant did not provide any details about her income. He pays her parents \$200 for rent and contributes to other household expenses, such as groceries. (Tr. 54-55.) He drives a 2013 model-year vehicle and has a car payment of \$176 a month. He took out the car loan in May 2015 for \$16,655. Available credit information reflects that he was chronically 30 days late in his car payments, but he was never more than two payments past due. As of November 2021, his car loan was past



due one payment of \$176. (GE 2.). Car insurance for him and his fiancée is \$78 per week. (Tr. 58.) Daycare for their two daughters is \$400 a week. (Tr. 64.) Applicant has had unexpected expenses for his two older daughters. He spent \$150 on clothes for them during their recent stay with him. (Tr. 57.) Applicant has paid off his divorce attorney's fees (Tr. 36), but he did not provide any information about that amounts or dates of repayment.

## Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## Analysis

### Guideline F: Financial Considerations

The security concerns about financial considerations are articulated in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . .

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

Guideline F security concerns are established when an individual does not pay financial obligations according to terms. One or more of the credit reports in evidence establishes the delinquent debts alleged in the SOR, although the debts in SOR ¶¶ 1.m and 1.n were paid in June 2021, before the SOR was issued. Disqualifying conditions AG ¶ 19(a), "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations," apply.

At his hearing, Applicant credibly testified that he owes delinquent federal income taxes totaling about \$20,000 for tax years 2017 through 2020. He had insufficient funds withheld from his pay for taxes and then did not have the funds to pay the taxes with his returns because of his sizeable child support obligation. Although the information was apparently unknown to the DOD before Applicant's hearing, Department Counsel asked that it be considered under the whole-person evaluation and did not move to amend the SOR to include the debt as an issue of security concern under Guideline F. The Appeal Board has held that non-alleged conduct cannot be considered in a manner that

contravenes the notice requirements in ¶ E3.1.3 of the Directive. Accordingly, his tax delinquency is not considered for disqualifying purposes. However, conduct not alleged may be considered for limited purposes, such as assessing an applicant's credibility; evaluating an applicant's evidence of extenuation, mitigation, or changed circumstances; considering whether an applicant has demonstrated successful rehabilitation; or providing evidence for the whole-person assessment. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006). In that regard, Applicant's income tax delinquency is relevant in assessing mitigation of the financial concerns and the whole-person assessment of his judgment.

Applicant has the burdens of production and persuasion in establishing sufficient mitigation to overcome the financial concerns raised by his failure to meet several of his financial obligations according to contractual terms. AG ¶ 20 provides for mitigation under one or more of the following conditions:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

With respect to AG ¶ 20(a), Applicant's divorce, which largely caused his financial difficulties, is a circumstance that is unlikely to recur. AG ¶ 20(b) also applies in that his ability to remain current on his debts was compromised by his sizeable child support obligation and some \$10,000 in legal fees for his divorce. Applicant was largely current on his financial obligations before his divorce.

The recency of Applicant's delinquencies and his delay in addressing several debts weigh against him in terms of finding full mitigation under AGs ¶¶ 20(a) and 20(b), however. Applicant is credited with paying \$267 per month for several months in 2018 to a credit management company. He cannot be faulted for the firm's failure to perform. However, he indicated on his SF 86 that the company was going to address all of his debts for him. According to his hearing testimony, the company was handling at most three accounts. He terminated the services of the company around October 2018, but then did little to address his debts before June 2021. He testified to some unexpected medical

expenses that caused a substantial child support arrearage by March 2019. Yet, it is difficult to conclude that he acted fully responsibly toward his SOR creditors in 2019 and 2020. A component of sound financial judgment is whether an individual remains in contact with his or her creditors and attempts to settle balances in full or under terms agreed by his or her creditors. There is no evidence that Applicant made any payments toward any of the SOR debts in 2019 or 2020. Applicant and his fiancée had their first child two years ago, so either in 2019 or early 2020, but I cannot speculate as to the financial impact of her birth and care. Applicant provided no details in that regard. He did not begin to establish a track record of payments toward his past-due debts until June 2021. With respect to some of the debts, including his two largest (SOR ¶¶ 1.a and 1.b), he made \$60 and \$67 weekly payments in June 2021, but then paid nothing from July 2021 through December 2021 before resuming payments at \$10 a week in January 2022.

AGs ¶ 20(c) and 20(d) have some applicability. In June 2021, Applicant resolved the debts in SOR ¶¶ 1.m and 1.n. In December 2021, he satisfied a credit-card collection debt that went to judgment (SOR ¶ 1.h) and a credit-card collection debt (SOR ¶ 1.l). He paid off a cable/Internet services debt (SOR ¶ 1.k) in February 2022. He made consistent payments since June 2021 to significantly reduce the balance of the debt in SOR ¶ 1.c to where that debt will soon be paid off. He also demonstrated a sufficient track record of payments since the summer of 2021 on the debts in SOR ¶¶ 1.d, 1.f, and 1.i. Favorable findings are warranted as to those debts that have been paid off or have been substantially reduced through payments.

Applicant has been paying on other debts (SOR ¶¶ 1.a, 1.b, and 1.j) regularly only since January 2022. He has made weekly payments since January 24, 2022, on a credit-card debt owed to a home-improvement retailer. While he believes those payments are being made on the account in SOR ¶ 1.g, available credit reports indicate that the account in SOR ¶ 1.g is instead a gasoline credit-card debt on which there is no evidence of payments. He has not made any payments on the joint debt in SOR ¶ 1.e.

Applicant is not required to pay off each of his delinquent debts to be eligible for a security clearance. Indeed, the first debts paid off may be other than those alleged in an SOR. He has demonstrated good faith of late towards his creditors. Nevertheless, some concerns persist about his financial judgment and stability. He has only \$148 in checking deposits and no savings, despite paying only \$200 in rent to his fiancée's parents. After payments from January 2022 to early April 2022, he owes approximately \$9,640 on the defaulted loan (SOR ¶ 1.a); \$3,007 to his former landlord (SOR ¶ 1.b); about \$1,895 on the debt in SOR ¶ 1.d; \$2,225 on the debt in SOR ¶ 1.e; about \$1,490 on the debt in SOR ¶ 1.f; possibly the full balance of \$1,245 on the gasoline credit-card account in SOR ¶ 1.g; \$593 on the debt in SOR ¶ 1.i; and \$942 on the debt in SOR ¶ 1.j. He reports unpaid balances of \$739 and \$898 on two unalleged past-due accounts that are in repayment. He owes the IRS \$20,000 for tax years 2017 through 2020. His credit report from December 2021 shows a history of late payments on his car loan, which was again past due in November 2021. A second car loan was \$300 past due as of October 2021.

Applicant's financial stress was recently alleviated somewhat by the modification in his child support obligation from \$457 to \$391 per week in February 2022, although his monthly installment payment to the IRS increased by \$25 to \$50 last month. The payoff of the debt in SOR ¶ 1.c will free up another \$41 per week that he plans to put towards his other delinquencies. Even so, given the repayment plans that are currently established, it is going to take years for Applicant to pay off his remaining delinquencies. At \$10 a week, it will take years for Applicant to resolve the credit union debt (SOR ¶ 1.a). The financial considerations security concerns are partially mitigated.

### **Whole-Person Concept**

In assessing the whole person, the administrative judge must consider the totality of Applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). Those factors are:

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

The analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

Applicant is a longtime defense-contractor employee whose financial situation deteriorated because of the mitigating circumstances of his divorce and court-mandated child support. Yet, the evidence shows that Applicant took on more debt, including loans for \$5,733 and \$11,266, when most of his old delinquencies had not been satisfied. His sizeable federal income tax delinquency is an additional financial burden, which raises concerns about his financial judgment. Most of his income tax debt was incurred for tax years 2017 through 2019, when he was making no payments toward his old delinquencies and was behind in his child support, so those obligations do not fully explain his inability to pay his taxes. Applicant asserts that any future tax refunds will be applied to his outstanding federal tax delinquency of some \$20,000. Even so, I have to make a decision on the record presently before me. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). Based on the evidence of record, it is not clearly consistent with the interests of national security to grant or continue security clearance eligibility for Applicant at this time.

## Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	Against Applicant
Subparagraphs 1.c-1.d:	For Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Subparagraphs 1.h-1.i:	For Applicant
Subparagraph 1.j:	Against Applicant
Subparagraphs 1.k-1.n:	For Applicant

## Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Elizabeth M. Matchinski  
Administrative Judge